JUDICIAL DEPARTMENT.

HIGH COURT OF MYSORE, BANGALORE.

Notification dated 14th July 1937.

Current No. 591—27-28.

Subject:—

Addition of a new order as "Order XXXVIIA—Interlocutory applications" to Schedule 1 of the Code of Civil Procedure, 1911, and alteration of the title and removal of sub-title of Order XXXIX of the said Code.

The following addition of a new order as "Order XXXVIIA—Interlocutory applications" to Schedule I of the Code of Civil Procedure, 1911, and alteration of the title and removal of sub-title of Order XXXIX of the said Code, which the High Court proposes to make, in exercise of the powers conferred by Section 122 of the Code of Civil Procedure, 1911, is published, as required by the said section, for the information of all persons likely to be affected thereby. and notice is hereby given that the said addition and alteration will be taken up for consideration by the High Court on or after the 23rd August 1937. Any objection or suggestion which may be received from any person with respect to the proposed addition and alteration before the said date will be considered by the High Court.

I. Add the following rules as a new order as "Order XXXVII A—Interlocutory applications."

ORDER XXXVIIA.

Interlocutory applications.

1. *Interlocutory application.*—"Interlocutory application" means an application to a Court in any suit, appeal or proceeding already instituted in such Court other than a proceeding for execution of a decree or order.

2. *Form of interlocutory application.*—Every interlocutory application shall be in writing duly stamped and shall be headed with the cause-title of the suit, appeal or other proceeding to which it relates.

3. Every interlocutory application shall be moved in Court either when the Judge first sits for the day or, if the Judge so orders, at the beginning of the afternoon sitting, and except with the permission of the Judge no such application shall be moved until the expiry of seven days from the day on which notice of the application has been served as required by sub-rule (4) of this rule nor upon a day other than that specified in the notice to be given under that sub-rule.

4. *Notice.*—Unless the Court otherwise orders, notice of every interlocutory application shall be given to every other party to the suit, appeal or proceeding, who has entered an appearance in it, or to his pleader by delivering to him a copy of the application and of any affidavit supporting it with a written intimation on the copy of the application specifying the day on which the application is to be moved in Court not less than seven days before that day. Every party and every pleader appearing for a party in any suit, appeal or proceeding, in which that party has entered an appearance, shall accept delivery of any copy of an interlocutory application which any other party proposes to make in that suit, appeal or proceeding and of any affidavit in support of such an application and give a dated acknowledgment in writing or by thumb impression of its delivery.

5. *Contents thereof.*—Except where otherwise provided by any law or rule for the time being in force, an interlocutory application shall state only the order prayed for and shall not contain any statement of facts or argumentative matter. Every application in contravention of this rule may be returned for amendment or rejected.

6. *May be rejected if substantive order is not asked for.*—Every application, which does not pray for a substantive order but prays merely that some other application may be dismissed, and every application for an order which ought to be applied for on the day fixed for the hearing of any suit, appeal or matter, may be rejected.

7. Any party who wishes to oppose an interlocutory application may file a counter affidavit or affidavits to prove facts on which he relies; but written objections or arguments shall not be filed.

8. *Proof of facts by affidavit.*—Any facts required to be proved in order to support or oppose an interlocutory application shall, unless otherwise ordered by the Court, be proved by affidavit; but the Judge may in any case direct evidence to be given orally, and thereupon the evidence shall be recorded, and exhibits marked, in the same manner as in a suit, and lists of the witnesses and exhibits shall be prepared and annexed to the order.

II. Alter the title of "Order XXXIX. Temporary Injunctions and Interlocutory Orders" in Schedule I of the Code of Civil Procedure, 1911, as follows:—

"Order XXXIX—Temporary Injunctions and Orders."

III. Remove the two sub-titles "Temporary injunctions" and "Interlocutory Orders" occurring in order XXXIX of the said Code.

T. SHAMIENGAR,
Registrar.